

## **EXHIBIT H**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KELLY BENNETT,

Plaintiff-Counterclaim Defendant,

-against-

STERLING PLANET, INC.,

Defendant-Counterclaim Plaintiff.

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**DEFENDANT'S  
RESPONSE TO  
PLAINTIFF'S FIRST  
INTERROGATORIES**

Civil Action No. 08-1176  
(GLS/DRH)

NOW COMES Defendant-Counterclaim Plaintiff Sterling Planet, Inc. ("Sterling Planet") and serves its responses to Plaintiff's First Interrogatories to Defendant.

**INTERROGATORIES**

1. Please set forth in detail each and every respect in which Defendant compensates or has compensated any employee or sales person with regard to any contract(s) with customers, including but not limited to bonuses of any form whatsoever, commissions and stock options.

**RESPONSE:** Defendant objects to the above request on the grounds that it seeks information that is not relevant to the claims and defenses in this case, in which only Plaintiff's compensation is at issue. In addition, Defendant objects to Interrogatory No. 1 on the basis that it is overly broad, unduly burdensome and without temporal limitation. Subject to and without waiving the foregoing objections, Defendant has compensated no employee, at any time, on a commission basis. Defendant previously compensated independent contractors Alan Zox, Charles Segerman and John Cusack (please refer to

Defendant's response to Interrogatory 2 below) on a commission basis for sales work performed by those individuals. No employee has stock options in Defendant. Options have been issued to employees to purchase stock in Sterling Planet Holdings, Inc. of which Defendant is a wholly owned subsidiary. The only employees of Defendant who have ever exercised stock options in Sterling Planet Holdings, Inc. are Melvin Jones and Therrell Murphy, Jr. The following bonuses were paid to employees during the term of Plaintiff's employment with the Defendant: Joe Barclay \$10,000 on 3/29/07; Therrell Murphy, Jr. \$25,000 on 12/31/08; Melvin Jones \$25,000 on 12/31/08; Robert Henry \$10,000 on 1/6/2009; Therrell Murphy, Jr. \$50,000 on 1/26/09 and Melvin Jones \$50,000 on 1/26/09.

2. Please set forth in detail the names and address(es) of all employees or sales persons to whom Defendant paid any bonus(es), commission(s) or stock option(s) during the term of Plaintiff's employment together with the date(s), amount(s), and check number(s) or other identifying number(s) of any such payment(s).

**RESPONSE:** Defendant objects to the above request on the grounds that it seeks information that is not relevant to the claims and defenses in this case, in which only Plaintiff's compensation is at issue. Defendant further objects to Interrogatory No. 2 and on the grounds that it is redundant, vague and nonsensical. Subject to and without waiving the foregoing objections, Defendant states that no employee has been paid with stock options in Defendant. Please refer to Defendant's response to Interrogatory No. 1 with respect to bonuses paid to employees during Plaintiff's tenure with Defendant. Defendant identifies the

following independent contractor(s) who have been paid on a commission basis by

Defendant:

Alan Zox

3/2/06	\$3,000
5/3/06	\$3,025
7/3/07	\$15,000

Charles Segerman

5/11/07	\$6,250
2/6/07	\$11,000
11/22/06	\$4,000
8/31/06	\$3,656.12
5/1/06	\$7,575.02
2/8/06	\$1,127.50
1/31/06	\$1,127.50
11/10/05	\$1,127.50
4/13/05	\$223.15

John Cusack

12/9/05	\$3,000
2/21/06	\$3,000

3. Please set forth in detail the names and address(es) of all employees to whom Defendant has issued any shares of stock from 2000 to the present, together with the date(s), amount(s) of shares, consideration paid, and the amount(s) of any applicable per share stock price.

**RESPONSE:** Defendant objects to the above request on the grounds that it seeks information that is not relevant to the claims and defenses in this case, in which only Plaintiff's compensation is at issue. Information related to other individuals' ownership interests in Defendant has no bearing on Plaintiff's claim to be contractually entitled to

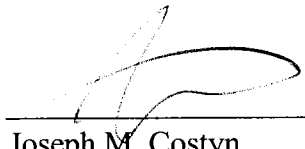
25,000 shares of Defendant's stock. Subject to and without waiving the foregoing objections, Defendant states that no employees own stock in Defendant, see Defendant's Response to No. 1, above.

4. Please set forth in detail the amount of any gross profit (defined as Sterling Planet revenue received from customer minus any broker fees paid to Broker to supply renewable energy and minus supply costs) for each customer contract or transaction identified in the Confidential Spreadsheet, attached hereto as Exhibit "A," together with the figures used by the Defendant to compute the applicable gross profit.

**RESPONSE:** Defendant objects to the above request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff was paid on a salary, not a commission basis and pursuant to the terms of the contingent offer letter upon which Plaintiff brings her purported claims for commissions, Plaintiff would have been entitled to receive a commission only on those accounts for which she had a fully executed End-User Referral Form. Plaintiff was never provided executed End-User Referral Forms for any of the accounts listed on Exhibit A, a list which was created by Plaintiff. Subject to and without waiving the foregoing objections, Defendant will produce documents identifying the amount of gross profit, if any, for each customer or transaction for which Plaintiff had an executed End-User Referral Form.

This 8<sup>th</sup> day of July, 2010.

*[signature on next page]*



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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
ALBANY DIVISION**

KELLY BENNETT,

Plaintiff,

v.

STERLING PLANET, INC.

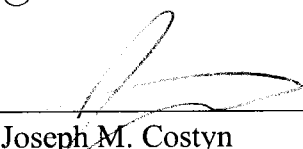
Defendant.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 8<sup>th</sup> day of July, 2010, served a copy of the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S INTERROGATORIES** via e-mail and U.S. Mail to the following attorney of record:

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